

By



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/604,526	07/29/2003	Arthur E. Onweller	1067.01001	1525

24254 7590 08/30/2005

ROGER A JACKSON, ESQ  
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SUITE 1504  
DENVER, CO 80203-3185

EXAMINER

BASINGER, SHERMAN D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 08/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>		<b>Applicant(s)</b>	
	10/604,526		ONWELLER, ARTHUR E.	
	<b>Examiner</b>		<b>Art Unit</b>	
	Sherman D. Basinger		3617	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 August 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-12, 15, 16 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 15 and 16 is/are allowed.
- 6) ☒ Claim(s) 19-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 August 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## DETAILED ACTION

### *Drawings*

1. The replacement sheets of drawings filed August 12, 2005 have been approved for entry.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 19-24 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 20-25 of copending Application No. 10/710378. Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the limitations in claims 19-24 of the instant application are found in claims 20-25 of application 10/710378. In using a marine mooring line vermin shield as set forth in claims 20-25 of application 10/710378, one would be using a marine mooring line vermin shield as set forth in claims 19-24 of the instant application, and it would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains to do so. Motivation to do so is to keep vermin off of a boat.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

In claim 20 of application 10/710378, paragraph a, "a lockable element" is claimed as opposed to "a lock" claimed in claim 19 of the instant application; however, because a lock is a lockable element, the same invention is being claimed.

#### ***Allowable Subject Matter***

4. Claims 1-12, 15 and 16 are allowed.

5. The following is a statement of reasons for the indication of allowable subject matter: Claim 1 is allowed over the art of record and the pending claims of application 10/710378 in view of the limitation "said closure second end is also sized and configured to removably engagably receive an aperture insert, said closure second end includes a closure retention snap void, said aperture insert includes a retention snap protrusion, wherein said void and said protrusion are removably interlockable being operational to removably retain said aperture insert on said closure second end, said aperture insert is adapted to partially compress the mooring line against said aperture when said closure is in the closed state".

#### ***Response to Arguments***

6. Applicant's arguments filed August 12, 2005 with regard to claims 19-24 have been fully considered but they are not persuasive. Claims 20-25 of application 10/710378 include all of the limitations found in claims 19-24 of the instant application

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and in addition include the added use of a fastener as argued by applicant. In using the vermin shield in the manner of claims 20-25 of application 10/710378, one having ordinary skill in the art would be using the vermin shield in the same manner claimed in claims 19-24 of the instant application and would have found it obvious to do so. For this reason, claims 19-24 are rejected with claims 20-25 of application 10/710378.

7. This new grounds of rejection is necessitated by applicant's amendment of claims 20-24 in application 10/710378.

### ***Conclusion***

8. Applicant's amendment in his copending application 10/710378 necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).



A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sherman D. Basinger whose telephone number is 571-272-6679. The examiner can normally be reached on Monday through Friday, 5:30 a.m. to 2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

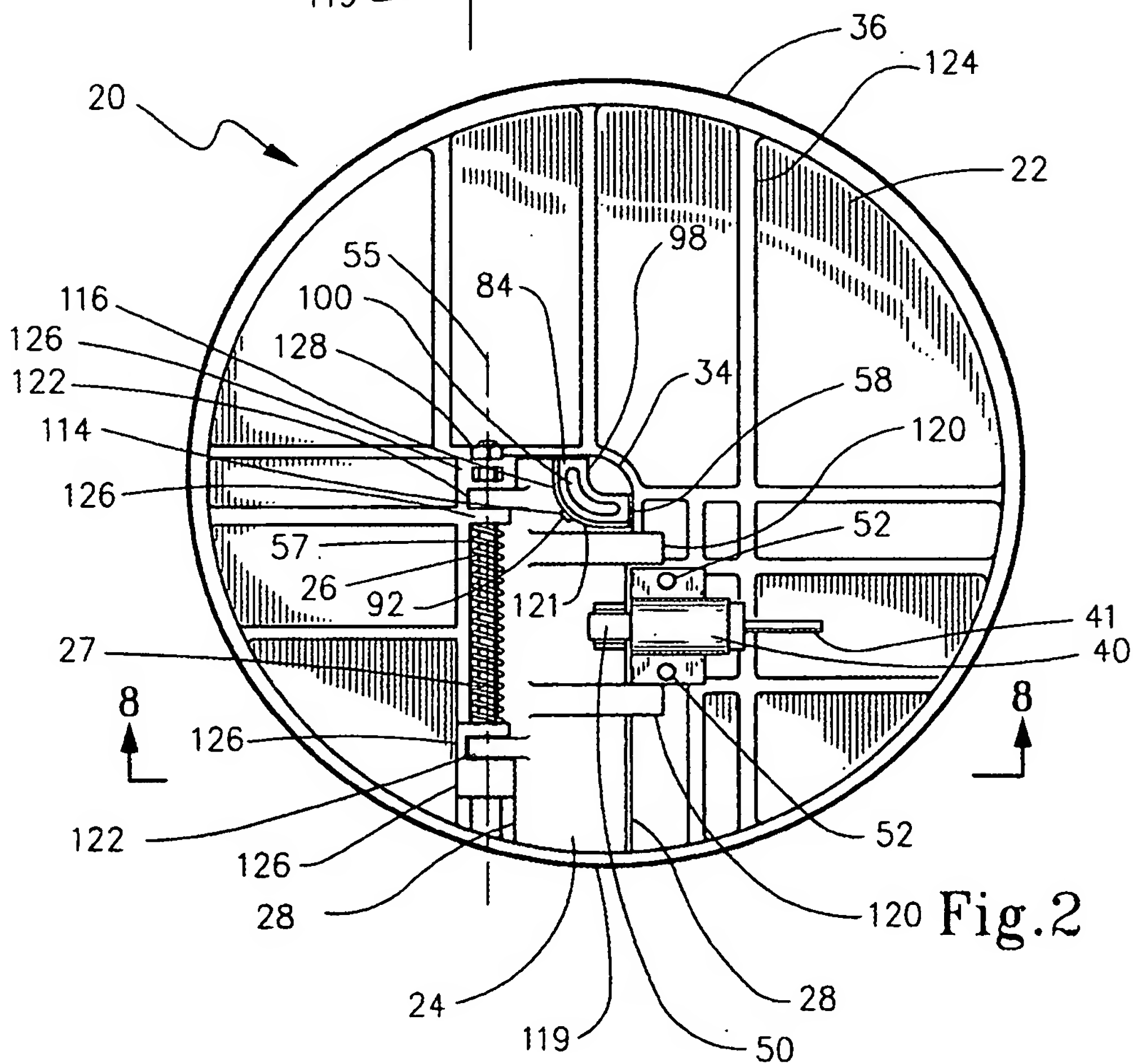
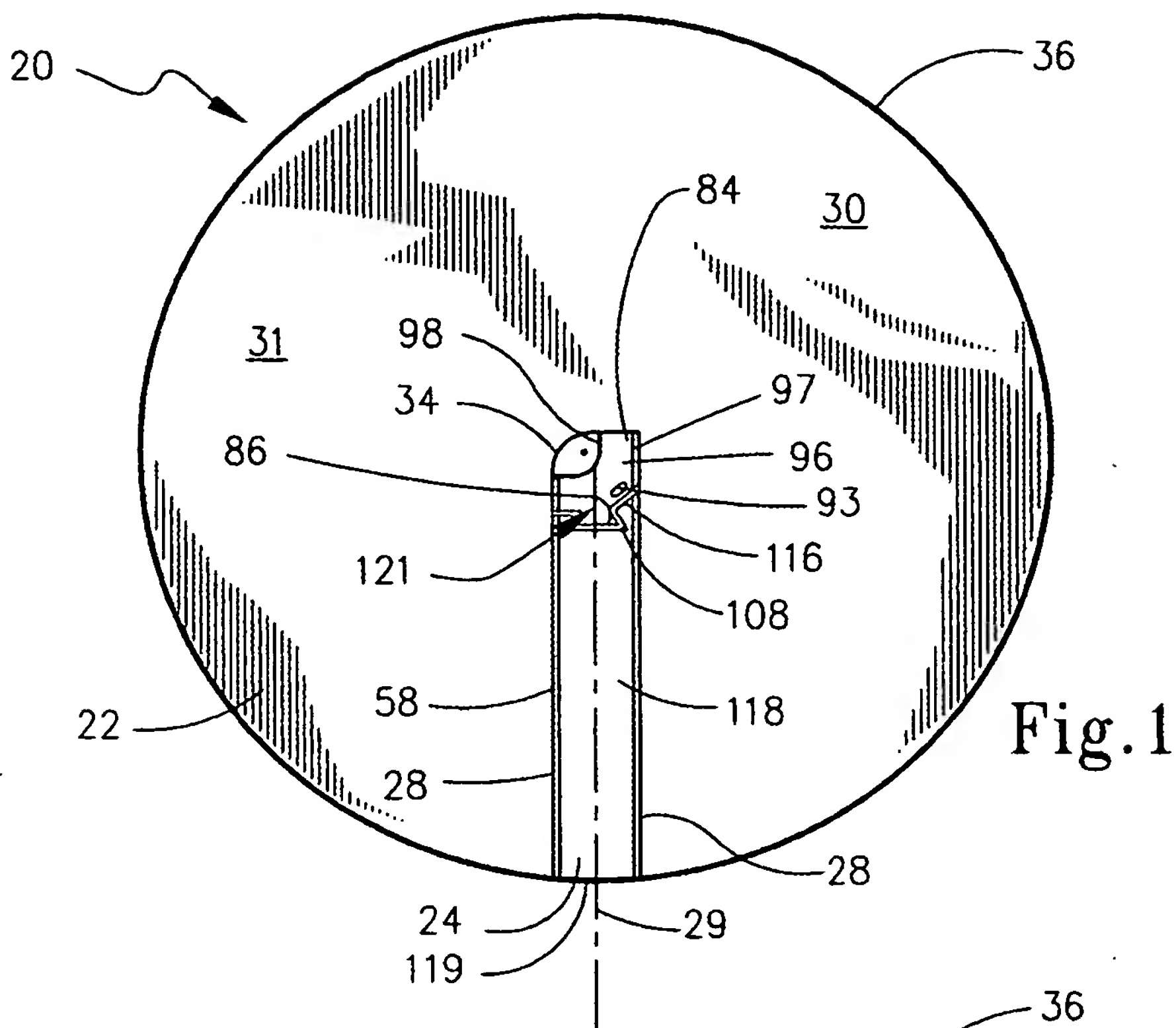
Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

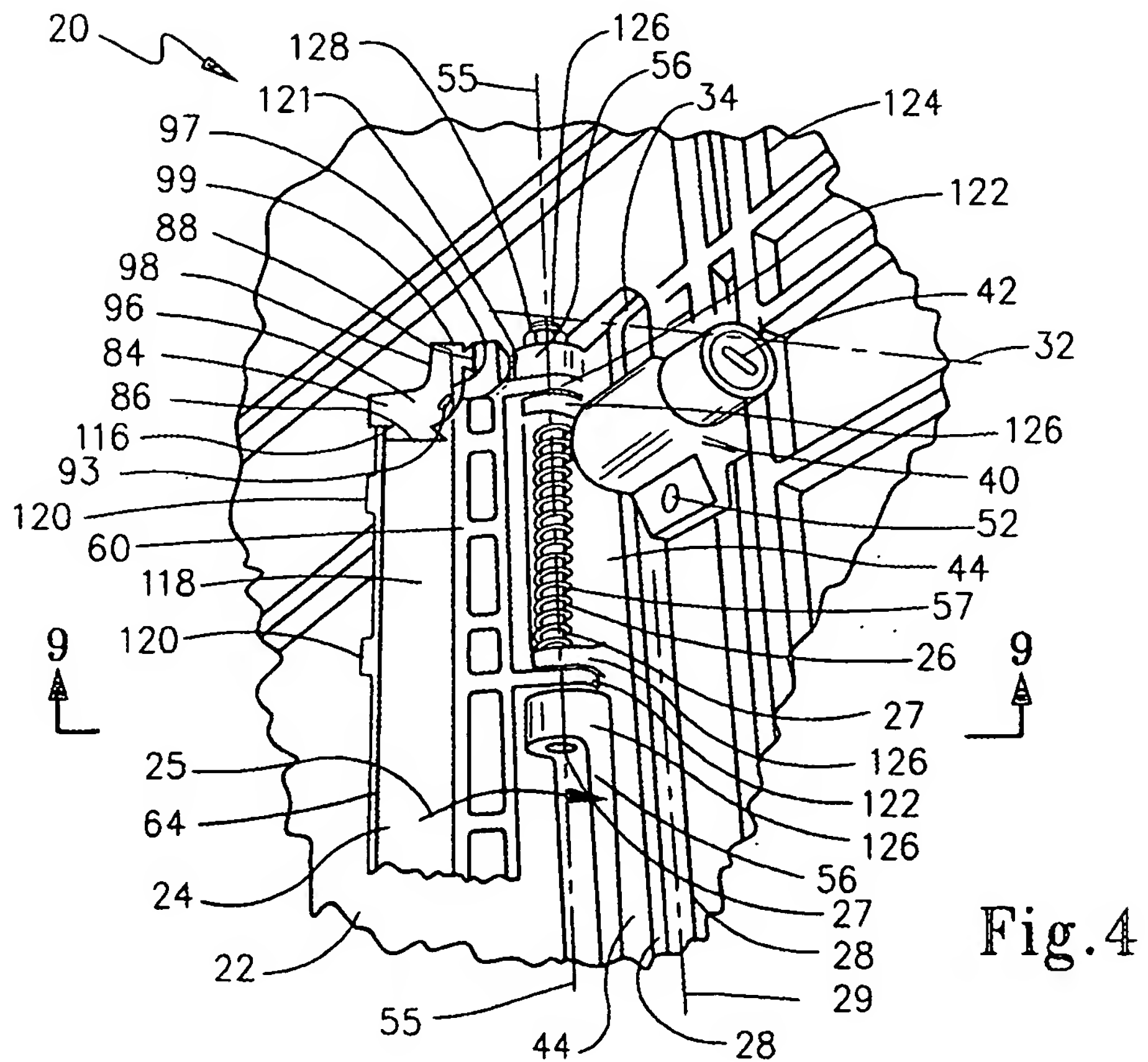
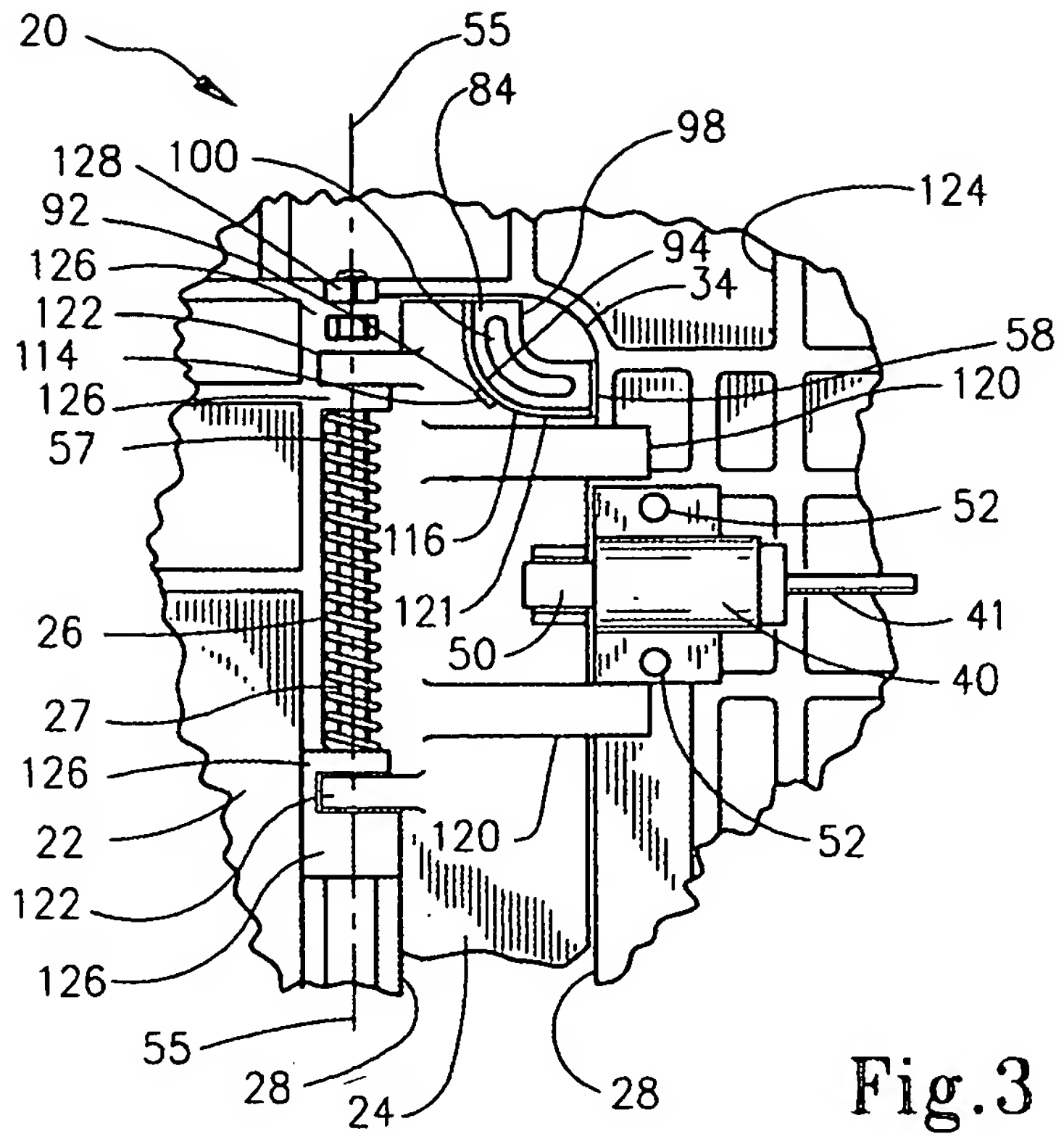
  
Sherman D. Basinger  
Primary Examiner  
Art Unit 3617  


8/26/05



all  
5  
replacement  
sheets  
filed  
8/12/05  
approved  
903  
8/26/05





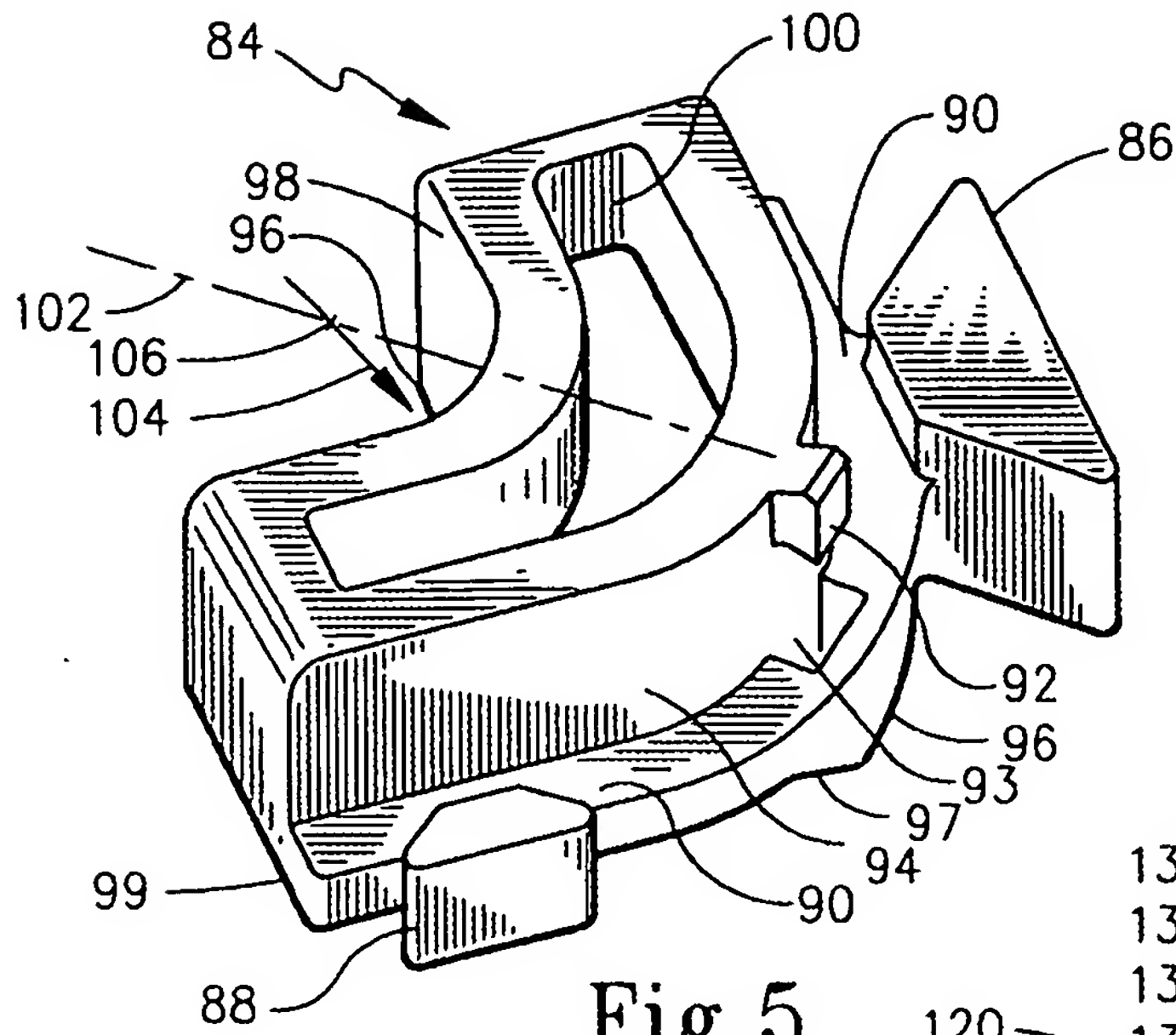


Fig. 5

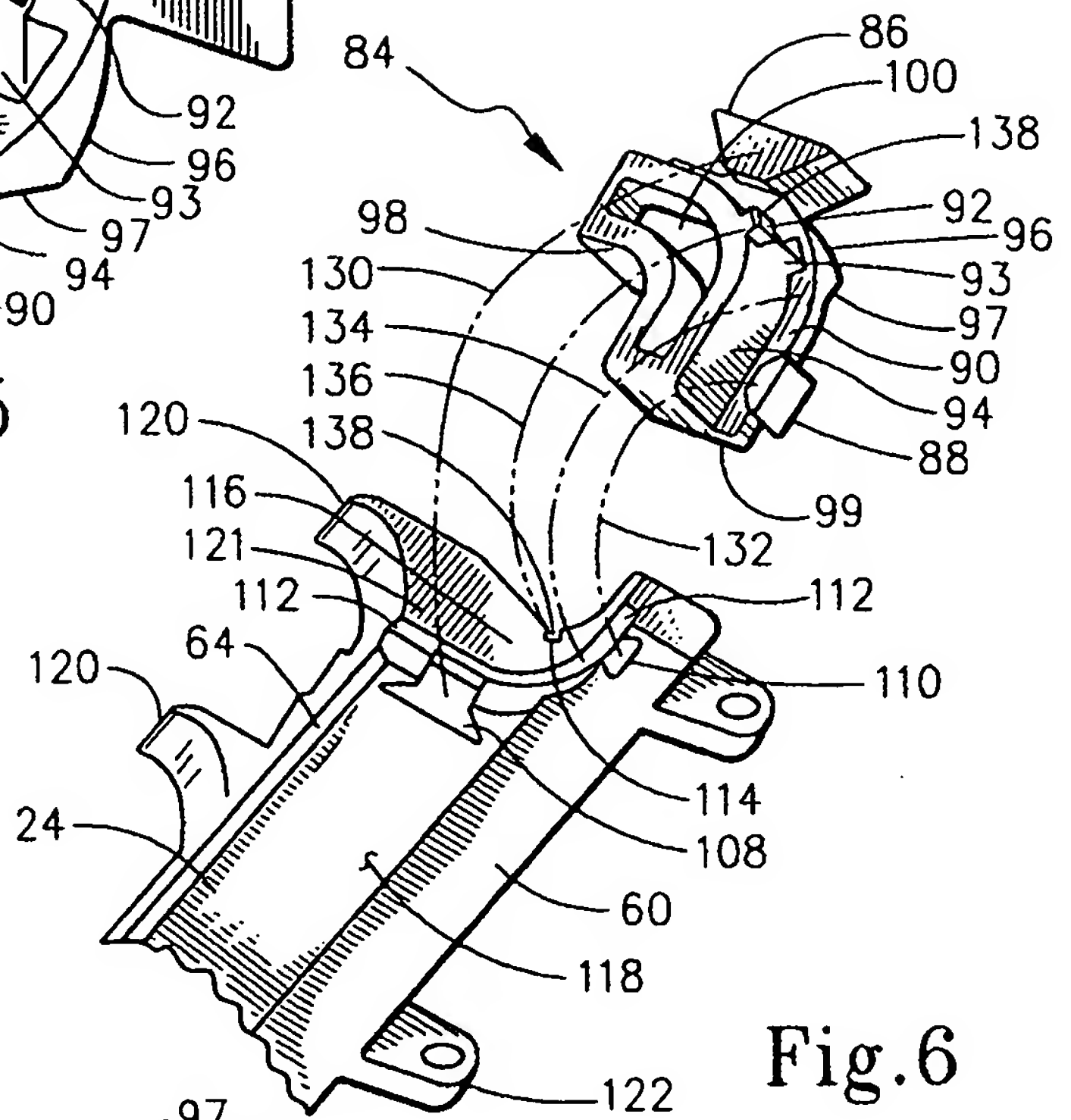


Fig. 6

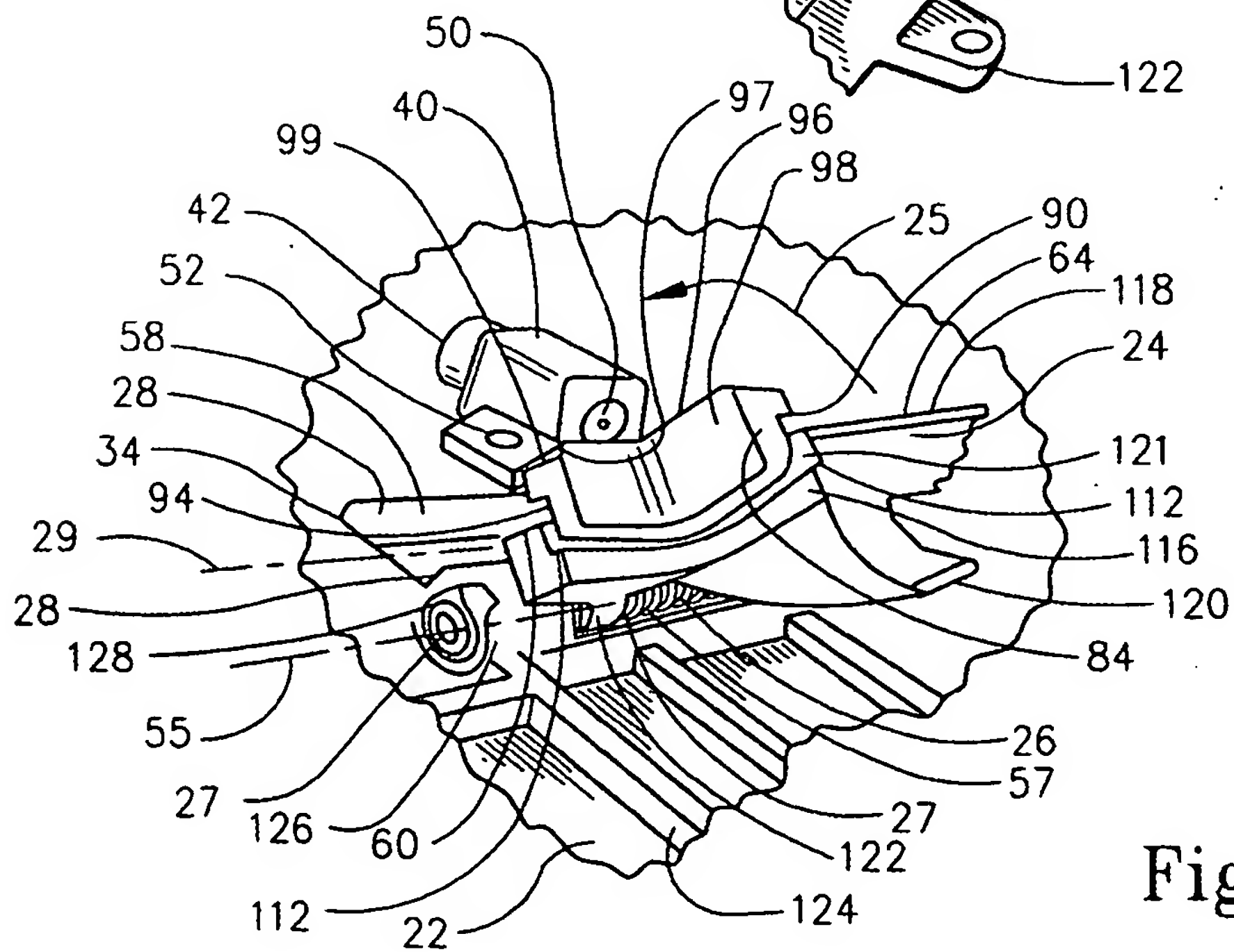


Fig. 7

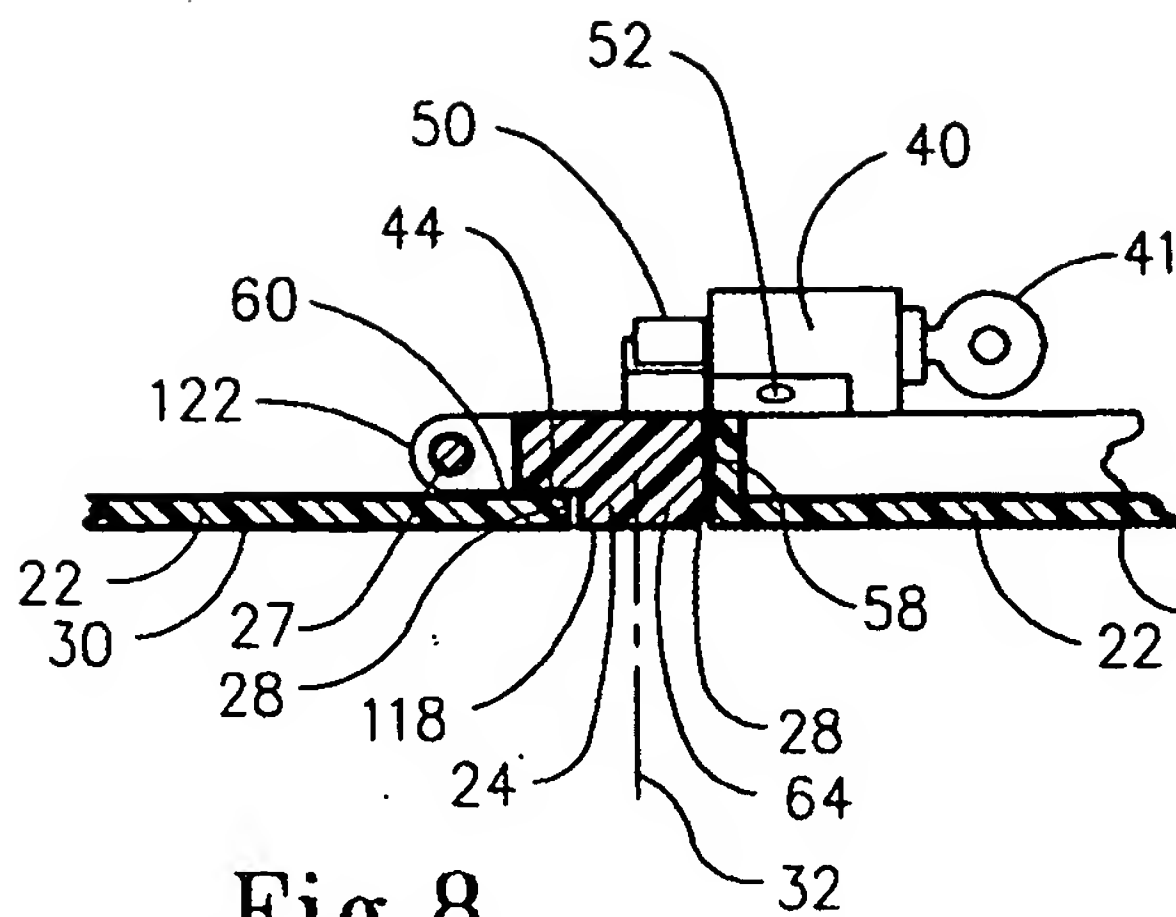


Fig. 8

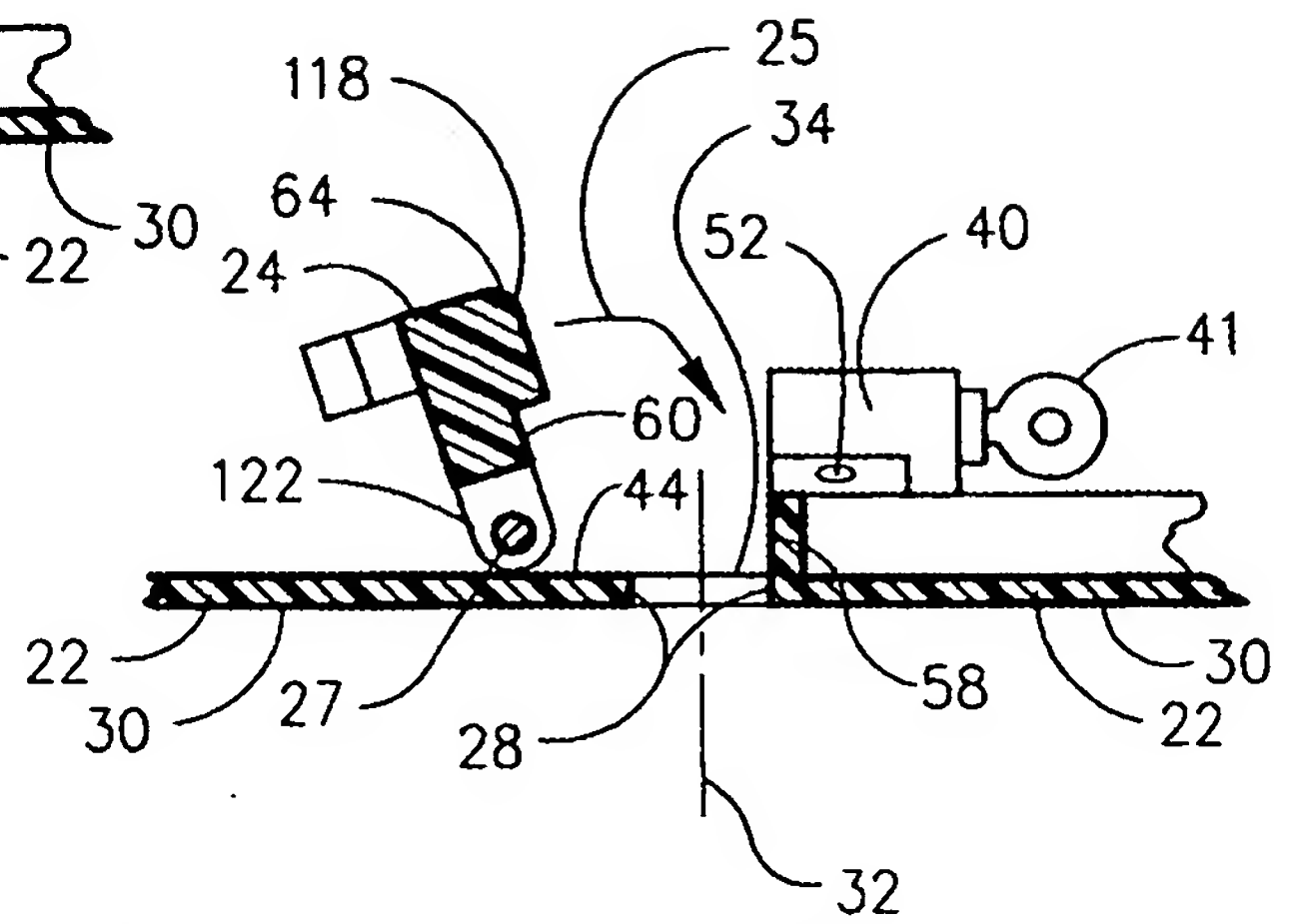


Fig. 9

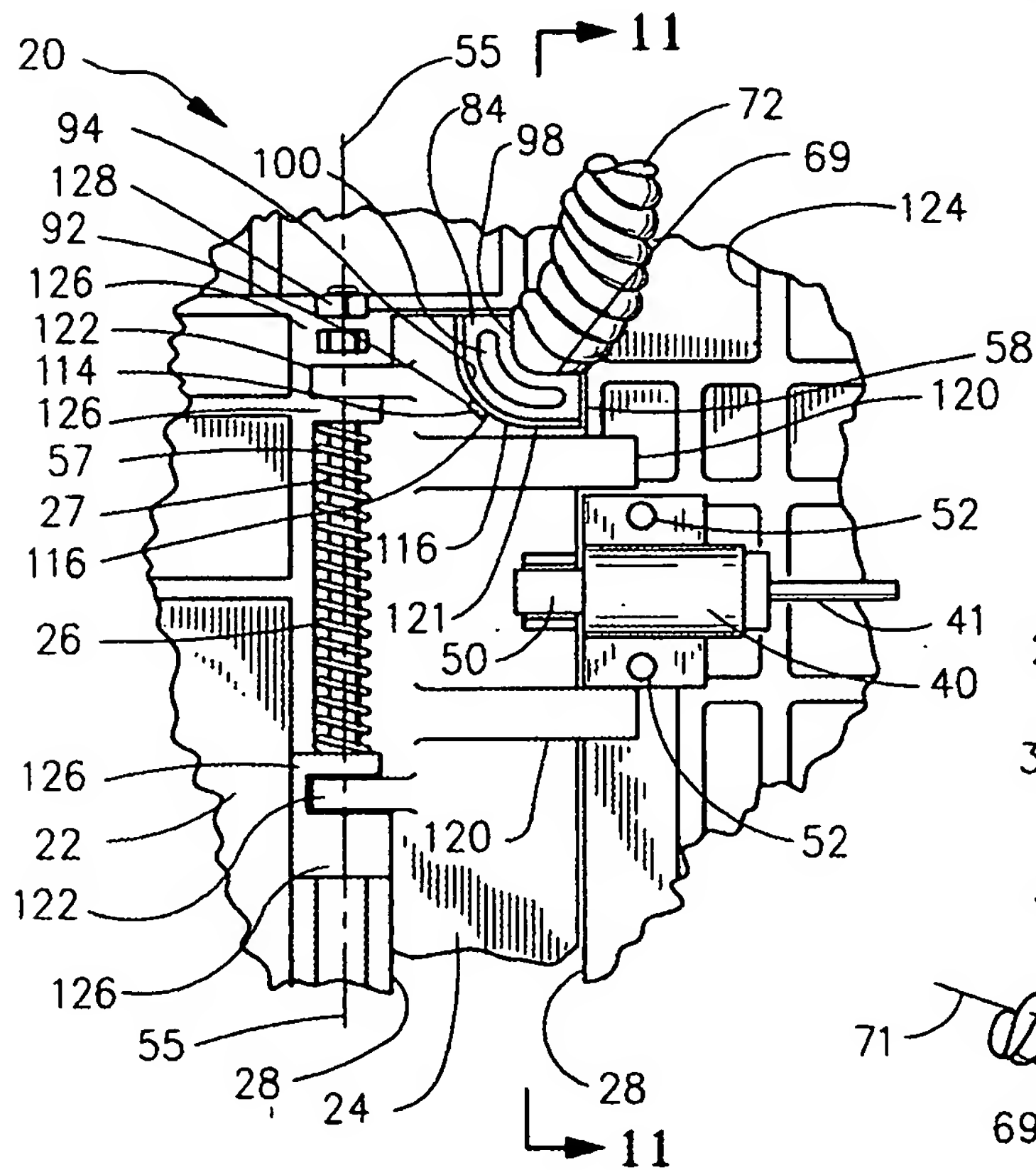


Fig. 10

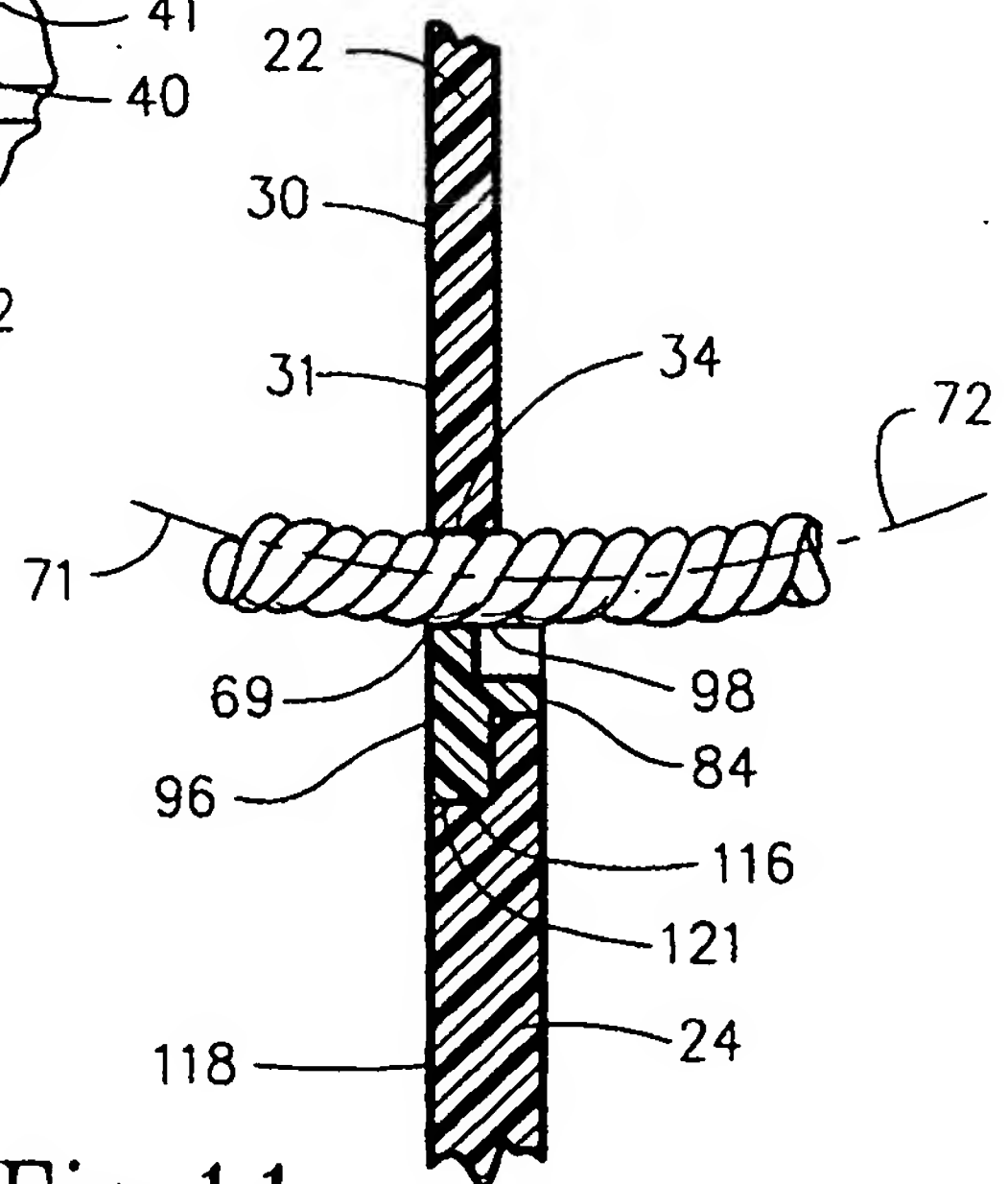


Fig. 11

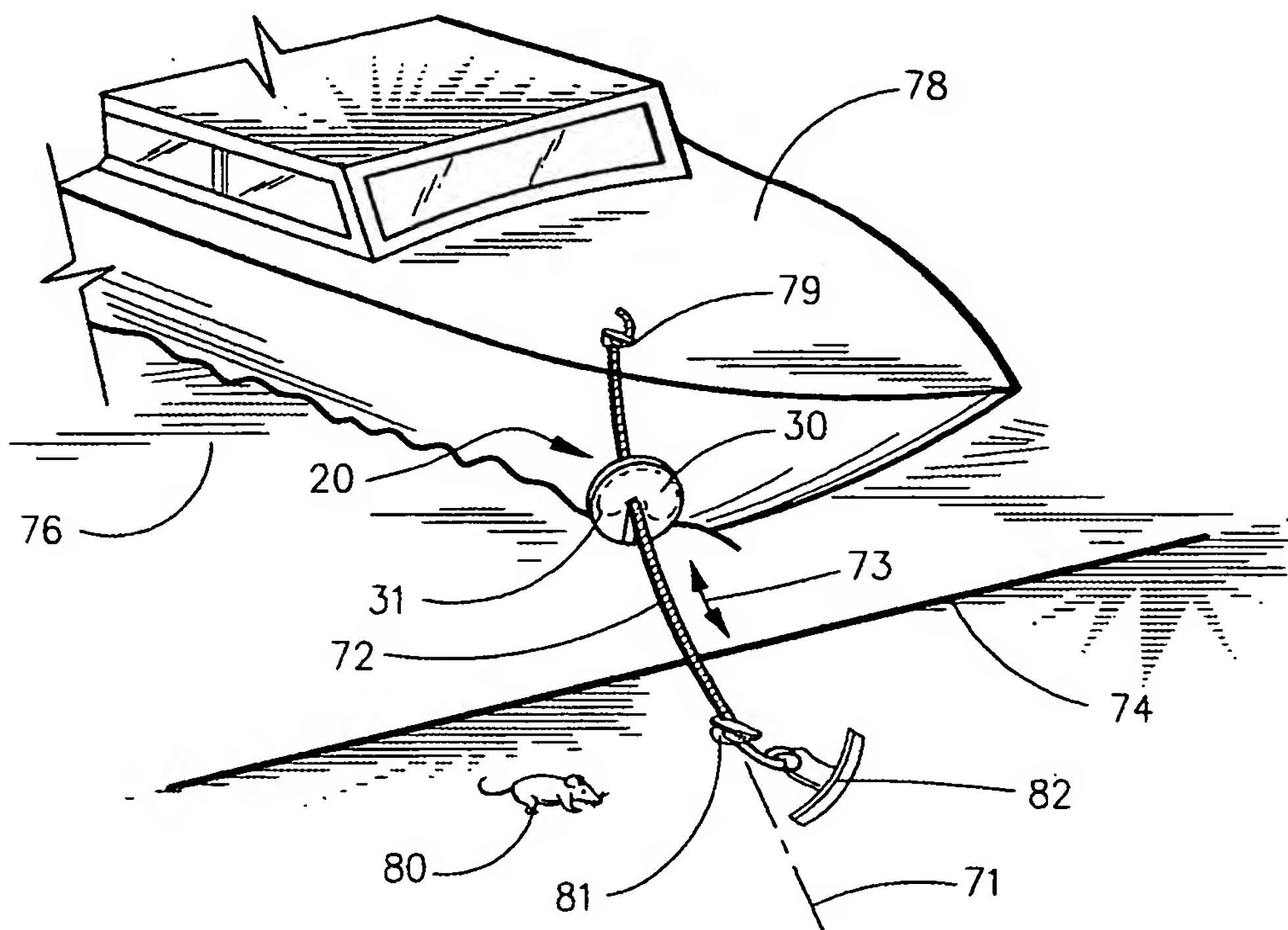


Fig. 12